IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 1774 of 2006 (O&M)

DATE OF DECISION : 01.09.2006

Surinder Singh

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. D.S. Gurna, Advocate,
for the petitioner.

* * *

Petitioner Surinder Singh, husband of Raj Kaur deceased, has filed this revision petition against the order dated 20.5.2006, passed by Sessions Judge, Jalandhar, whereby his application filed under Section 319 Cr.P.C., for summoning Rajinder Singh son of Bachan Singh as an additional accused to face trial in FIR No. 347 dated 28.9.1999 under Section 307, 34 IPC (lateron converted to Section 302, 34 IPC), registered at Police Station Sadar Jalandhar, has been dismissed.

2. In this case, in the year 1999, the instant case was registered under Section 307 IPC on the statement of deceased Raj Kaur. It was alleged that she was burnt alive by accused Bachan Singh, who is facing trial, his son Rajinder Singh and co-accused Bhajan Singh and Pala. After her death, the FIR was converted into one under Section 302 IPC. After the investigation, challan was filed only against Bachan Singh and that too under Section 306/323/34 IPC. The other accused, including Rajinder Singh son of Bachan Singh were found innocent and they were kept in column No.2. After examination of four prosecution witnesses, including Judicial Magistrate, before whom the alleged dying declaration was made, the prosecution filed an application under Section 319 Cr.P.C. for summoning Rajinder Singh son of Bachan Singh and Kishan Singh son of Maghar Singh as additional accused. The said application was dismissed by

on 3.12.2002. Thereafter, petitioner Surinder Singh was examined as PW.6. Again, an application under Section 319 Cr.P.C. for summoning Rajinder Singh as an additional accused was filed, which was dismissed on 22.3.2003. Then for the third time, application under Section 319 Cr.P.C. was filed, which was dismissed on 17.5.2003, while observing as under :-

> "8. Without expressing any opinion about the merits of the case, there is no ground to summon accused Rajinder Singh under Section 319 Cr.P.C. as this court has observed about him as under in the previous order :
>
> > "The only newly recorded evidence after the dismissal of the said application on 3.12.2002 is that of Surinder Singh PW-6. Though he has nominated accused Rajinder Singh and stated that Bachan Singh accused has sprinkled kerosene oil on the wife of Surinder Singh and Rajinder Singh present in the court had took the said bottle from Bachan Singh and sprinkled the same thoroughly on his wife and set his wife on fire. But this evidence is to be adjudged as a whole as he is confronted with various material improvements in Ex.DA. So, the evidential value of this witness is to be seen at proper stage in the light of other evidence but at this stage accused Rajinder Singh who is under training as a law graduate cannot be summoned. To one question Surinder Singh PW-6 replied the following answer which is as under:-
> >
> > Q. It is fact that Ex.DB did not mentioning the name Rajinder Singh?
> >
> > A. I did not make any affidavit about this question. However, his name is not mentioned."
>
> Keeping in view the above admission of Surinder Singh PW-6 who is the only witness to incriminate new accused Rajinder Singh. At this stage there is no fresh valid

evidence to justify the summoning of said Rajinder Singh who

is admittedly a law graduate under training of District Court, Jalandhar."

Thereafter, on alteration of charge from Section 306 IPC to Section 302 IPC, another application for summoning Rajinder Singh was filed, which has again been dismissed by the trial court, vide impugned order, while observing as under :-

> "7. I do not find any force in the arguments of the learned counsel for the complainant. Earlier similar application was filed on 11.4.2002 and after taking reply the said application was dismissed on 3.12.2002 and thereafter an other application under Section 319 Cr.P.C. for summoning Rajinder Singh, as an accused was filed on 20.3.2003 and again the third application was filed for summoning Rajinder Singh under Section 319 Cr.P.C. and the same was dismissed on 17.5.2003. The matter cannot be agitated time and again and order passed earlier cannot be reviewed now. Therefore, the application under Section 319 Cr.P.C. filed by the learned counsel for the complainant being without any merit is dismissed."

3. After hearing counsel for the parties and keeping in view the fact that on earlier occasions, every material, including the dying declaration as well as statement of complainant as PW.6, was considered by the trial court and thereafter, the prayer of the prosecution as well as the complainant was declined. In these circumstances, I do not find any illegality in the impugned order, whereby the fourth application for summoning Rajinder Singh as an additional accused has been dismissed.

4. Dismissed.

September 01, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**